

## **Powers of the Water Advisory Committee in the Restructured Agreement for Water Supply**

### ***Makeup of WAC***

The Water Advisory Committee (WAC) is made up of the signers of the Restructured Agreement except Forestville Water District and the Sonoma County Water Agency (Agency) – namely:

- 6 Cities: Cotati, Petaluma, Rohnert Park, Santa Rosa, Sonoma and Town of Windsor
- 2 Special Districts: North Marin Water District and Valley of the Moon Water District,

or eight in all. These eight are termed the Water Contractors.

### ***How Organized***

Sections 5.3 (a) and (b), reorganize the WAC into two tiers – a committee of elected officials (one member and one alternate) meeting quarterly and a Technical Advisory Committee (TAC) that meets monthly. A chairperson and vice chairperson are created, each to serve a two year term. The WAC can create standing and ad hoc committees that it deems necessary. One standing committee, the Water Conservation Sub-Committee, is created by the Restructured Agreement. It reports to the TAC.

### ***Voting Provisions***

Section 5.3 (a) provides that an affirmative vote requires:

- at least 5 of the 8 WAC representatives and
- 50% of the weighted vote.

The weighted vote is determined by dividing the entitlement of each water contractor (average daily rate of flow during any month allocated to each contractor in Section 3.1 (a)) by the sum of same). This calculation is shown in Attachment A. Voting provisions remains the same as in prior Agreements with the exception that Forestville Water District's representation is now taken over by the Town of Windsor.

### ***General Powers***

Section 5.2 of the Restructured Agreement (and before that both the Tenth and the Eleventh Amended Agreements for Water Supply) state/stated:

“Except as provided herein to the contrary, the power of the Water Advisory Committee is limited to that of collective spokesperson for the water contractors and shall be advisory only in nature.”

The exceptions then are the specific powers of the WAC that are called out in the Restructured

Agreement. They are listed below. An asterisk indicates a power added in the new Restructured Agreement:

### ***Specific Powers***

Specific Powers called out in the Restructured Agreement are grouped in this summary as follows:

1. Emergency Wells
2. Excess Entitlement Deliveries and Transfer of Cap
3. Transmission System
4. Potter Valley Project
5. Recycled Water and Local Supply Projects
6. Water Conservation
7. Watershed Restoration
8. Water Shortage
9. Marin Municipal Water District Agreements
10. Water Rates and Budget Matters
11. Operation of WAC

#### **1. Emergency Wells**

Section 2.2 Determine the amount of Emergency Well capacity the Agency should construct, acquire or lease.

Section 1.2 (h) defines Emergency Wells as: “.....auxiliary groundwater production wells that may be utilized to provide additional delivery capacity when necessary due to drought, equipment failure, or other transmission capacity impairment, inability to divert Russian River Project water (for water quality reasons or otherwise), or any other reason beyond the control of the Agency.”

#### **2. Excess Entitlement Deliveries and Transfer of Cap**

Section 3.3 (a) (1) A Regular Customer may take water in excess of its average daily rate of flow during any month Entitlement Limit, provided, it does not impair or delay delivery of Entitlements to any other Regular Customer, the Regular Customer taking such excess delivery is then proceeding in good faith with plans and funding to develop a reliable water supply sufficient to supply its needs for such excess delivery, and provided further, that either the WAC approves such excess delivery or such excess delivery is made during a period when deliveries to another Water Contractor are less than said other Water Contractor's Entitlement Limits and said other Water Contractor has notified the Agency in writing of its consent to such excess delivery.

Section 3.3 (b) This Section provides a mechanism whereby a Water Contractor having surplus “cap” (annual amount during any fiscal year) can transfer a portion of same to another Water Contractor. Section 3.3 (b) (2) provides that all Water Contractors must be notified of such a proposed arrangement and if any Water Contractor may object. Whereupon the WAC swings

into action and shall meet and determine whether the proposed transfer will impair or delay delivery of the objecting Water Contractor's Entitlements and if so whether there are measures that will eliminate such impairment or delay.

### **3. Transmission System**

Section 2.3 (a) Approve studies, preparation of technical reports, financial plans, and environmental documents for Transmission System facilities in addition to those authorized to be constructed by the Restructured Agreement.

Section 2.3 (b) Rules on the need for an amendment of the Restructured Agreement on questions that arise concerning additions or alterations of the Transmission System.

Section 5.1 (b) Reviews all proposals set forth by the Agency, which involves significant capital outlay for the Transmission System or any other project, which would significantly change the level of service or add significantly to the operation and maintenance expense to be born by the Water Contractors.

### **4. Potter Valley Project**

Section 1.2 (s) Approve any payments made to owner of the Potter Valley Project in order to assure continued operation.

Section 2.4 (a) Agency may not acquire the Potter Valley Project or any part of same without the affirmative vote of 6 representatives of the Water Contractors representing at least 2/3rds of the total weighted votes. This proviso was contained in both the Tenth and Eleventh Amended Agreements but the vote required was 5 representatives and 50% of the weighted vote.\* (Note: Agency's position is that WAC approval is required only if the Potter Valley Project is being acquired as a Transmission System facility.)

### **5. Recycled Water and Local Supply Projects**

Section 2.6 Approve studies or investigations, construction, funding, or partial funding of the Capital Cost of local Recycled Water Projects and Local Supply Projects. Also, approve Agency entering into agreements for the acquisition and sale of Recycled Water or the rights to Recycled Water.

Section 1.2 (d) defines Capital Cost as: ".....total funds expended for capital improvements, major replacements, or portions thereof, as context requires, including, but not limited to, planning, engineering, environmental impact analysis, right of way, financial and legal fees, interest during construction, and materials, construction, and replacement costs."

Section 1.2 (z) defines Recycled Water Project as: ".....any programs, projects, or facilities that produce or deliver recycled water, provided that the recycled water produced or delivered by such projects or facilities (1) results in a reduction in use of potable water from

the Transmission System, (2) reduces the amount of water diverted from the Russian River or its tributaries, (3) provides an environmental benefit which increases or avoids reduction to the water supply or Transmission System capacity available to the Water Contractors, or reduces the cost of providing such supply or capacity, or (4) assists the Agency to comply with the federal or state Endangered Species Act or any other environmental law or regulation, which compliance is required for the Agency to provide the water supply or Transmission System capacity to the Water Contractors as provided in this Agreement.”

And Section 1.2 (o) defines Local Supply Project as: “.....a water supply project undertaken by one or more Water Contractors, which reduces demand on the Transmission System during the months of June, July, August, or September.”

Section 5.3 (e)\* By November of each year, WAC shall review, approve and report to Agency, which proposed new Water Conservation, Recycled and Local Supply Projects are to receive funding in the next or later fiscal years.

## **6. Water Conservation**

Section 1.12 (b) Determine compliance by Water Contractors with water conservation mandates of the Agreement and implement a procedure whose purpose is to get the non-complying Water Contractor into compliance.

Section 2.5 Approve Water Conservation Projects that may be undertaken and/or funded by the Agency.

Section 1.2 (uu) defines these as: “.....(1) any program, project, or activity that will reduce potable water use within a Regular Customer’s service area (including, but not limited to, activities undertaken pursuant to Section 1.12 of this Agreement, but excluding Recycled Water Projects or Local Supply Projects approved after the date of this Agreement), or (2) any materials, supplies, Agency staff time, or contractor services provided by the Agency in support of any Regular Customer’s Water Conservation Project.”

Section 1.2 (aa) defines Regular Customers as: “..... any of the Water Contractors or the Other Agency Customers.”

And Section 1.2 (u) defines Other Agency Customers as: “.....the Agency, the County of Sonoma, California-American Water Company (with respect to the Larkfield Water District), Forestville Water District, Lawndale Mutual Water Company, Kenwood Village Water Company, Penngrove Water Company, the City of Sebastopol, the State of California, and Santa Rosa Junior College.”

## **7. Watershed Restoration**

Section 2.8 (a) and (c)\* With WAC approval and subject to concurrence of Agency, Agency may undertake any action, study or project related to watershed restoration and maintenance, or ground water studies and investigations. Section 2.8 (c) further provides that such activities or

projects can be undertaken even if they benefit only one (or more) Water Contractors provided the WAC approves and provided the benefited Water Contractors enter into an agreement with the Agency to pay supplemental charges which also must be approved by the WAC.

## **8. Water Shortage**

Section 3.5 (e)\* The WAC can vote to request the Agency physically restrict deliveries to Regular Customer who is taking water in excess of its allotment during a water shortage emergency. (Note: The Agency can, on its own initiative, so restrict such deliveries.)

Section 3.5 (f)\* Subject to a unanimous vote, an alternative method for allocating water pursuant to Section 3.5 is for the WAC to determine how much water is allotted to each Water Contractor. In the event the WAC exercises this alternative method, the Agency shall provide a calculation methodology or other information adequate for the determination of the volume of water which (i) the Water Contractors as a group, and (ii) all other Customers would be respectively entitled to. Any allocation determined by the WAC shall apply only to the volume of water which the Water Contractors are entitled to as a group.

## **9. Marin Municipal Water District Agreements**

Section 3.12 Must approve any amendment of or any subsequent agreements between Agency and Marin Municipal Water District re sale of water. (Subsequent agreements refers to the Third Amended Offpeak Water Supply Agreement dated January 25, 1996 and the Amended Agreement for the Sale of Water Between the SCWA and Marin Municipal Water District of the same date)

## **10. Water Rates and Budget Matters**

Section 4.1 (a) Determines amount of prudent reserves for purposes of Agency's calculation of charges

Section 4.1 (c) For the purposes of rate making, with the prior approval of the WAC, the Agency may change the criteria employed to provide an adequate predication of aqueduct sales during drought events.

Section 4.2 (b) Determine the amount of additional funds for storage and common facility capital improvements to be raised by Agency via the O&M rate – these amounts, then, if truly surplus at the end of the fiscal year, are transferred into the Storage and Common Facilities funds respectively - so called “pay as you go capital improvement funds for storage and common facilities”. See also Section 4.7 (b).

Section 4.6 (b) Approve additional revenue requirements to be included in calculating the Aqueduct Facilities Charges for the purpose of paying for aqueduct capital improvements – so called “pay as you go for aqueduct facility improvements”. This can be done for each of the aqueduct sub-category charges (Santa Rosa, Petaluma, and Sonoma Aqueducts).

Section 4.6 (e) Approve the levy of Aqueduct Facilities Charges whose purpose is to pay for major replacements of portions of or all of any aqueduct facility – so called “pay as you go replacement funds”. This can be done for each of the aqueduct sub-category charges (Santa Rosa, Petaluma, and Sonoma Aqueducts).

Section 4.16 O&M Charge – Water Conservation. Identifies \$15 million already authorized by the WAC for Water Conservation Projects and which the Town of Windsor is not eligible for funding until this amount is expended.

## **11. Operation of WAC**

Section 5.3 (a)\* Set meeting dates of WAC - generally quarterly.

Section 5.3 (e)\* May require the Technical Advisory Committee to create sub-committees and ad-hoc committees.

Section 5.3 (d)\* Once every two years, elect from its members two officers - a chair and vice-chair. By unanimous vote may approve subsequent two-year terms for officers. May remove officers.

Section 5.3 (f) Approves the spending by the Agency of up to \$30,000 in the first fiscal year of this agreement for study and analysis and other purposes as directed by the WAC. In subsequent fiscal years the WAC can set this amount higher or lower.